

**STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
CONSUMER SERVICES DIVISION**

IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Mortgage Broker Practices Act of Washington by:

NORTH AMERICAN REAL  
ESTATE SERVICES, INC., and  
ANDREW SANTOLI, President and Owner,

Respondents.

NO. C-04-061-04-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO ENTER  
AN ORDER TO DENY LICENSE  
APPLICATION AND COLLECT  
INVESTIGATION FEE

**INTRODUCTION**

Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 19.146 RCW, the Mortgage Broker Practices Act (Act). The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part. After having conducted an investigation pursuant to RCW 19.146.210, and based upon the facts available as of April 20, 2004, the Director institutes this proceeding and finds as follows:

**I. FACTUAL ALLEGATIONS**

**1.1 Respondents:**

- A. **North American Real Estate Services, Inc. (Respondent NARES)** submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a license to conduct business as a Mortgage Broker at the following location:

5655 Lindero Canyon Rd Ste 202  
Westlake Village, CA 91362

The application was received by the Department on July 3, 2003.

- B. **Andrew Santoli (Respondent A. Santoli)** was identified as the President and Owner of Respondent NARES in the application.

1 **1.2 Incomplete and Inadequate Response to Department Request Dated September 16, 2003:** On  
2 September 16, 2003, the Department sent a detailed request, via first class mail and telefacsimile, to Respondent  
3 NARES for additional information and documentation in the form of a written response, to be provided in a  
4 single package due to the Department no later than October 9, 2003. Respondent NARES's response, received  
5 by the Department September 22, 2003, was inadequate and incomplete as follows:

- 6 A. Respondent NARES continued to include the trade name "Pacific Bancorp" in various  
7 documents provided to the Department, despite being informed by the Department that the  
8 trade name "Pacific Bancorp" could not be used in the state of Washington.
- 9 B. Respondent NARES failed to provide a list of all personnel by location, including each  
10 person's name, title, and status as an employee or an independent contractor.
- 11 C. Respondent NARES failed to provide completed Independent Contractor Agreements for each  
12 independent contractor to be used as a loan originator.
- 13 D. Respondent NARES failed to provide the name, address, and telephone number of each third  
14 party provider used within the last six months, or intended to be used in the future.
- 15 E. Respondent NARES provided conflicting documents regarding Trust Accounting.
- 16 F. Respondent NARES failed to provide a complete employment history, and individual credit  
17 report including a check of public records, for Donna Maeda, listed as Respondent NARES's  
18 proposed Designated Broker at the time of application.
- 19 G. Respondent NARES failed to provide completed Individual Background Forms, credit reports  
20 including a check of public records, and a pair of fingerprint cards for Ali Vakili and Pamela  
21 Ryan, listed as officers of Respondent NARES in its application.
- 22 H. Respondent NARES failed to provide evidence of payment for all "unpaid" collection items  
23 listed on the credit report provided for Andrew Santoli.
- 24 I. Respondent NARES failed to provide an original, signed and sealed bond rider including the  
25 verbiage "a corporation organized under the laws of the state of Nevada."

1 **1.3 Incomplete and Inadequate Response to Department Request Dated September 23, 2003:** On  
2 September 23, 2003, the Department sent a detailed request, via first class mail and telefacsimile, to Respondent  
3 NARES for additional information and documentation in the form of a written response, to be provided in a  
4 single package due to the Department no later than October 22, 2003. Respondent NARES's response, received  
5 by the Department October 10, 2003, was inadequate and incomplete as follows:

- 6 A. Respondent NARES continued to include the trade name "Pacific Bancorp" in various  
7 documents provided to the Department, despite providing a written confirmation of an  
8 understanding that the trade name could not be used in the state of Washington.
- 9 B. Respondent NARES failed to provide a list of all personnel by location, including each  
10 person's name, title, and status as an employee or an independent contractor.
- 11 C. Respondent NARES failed to provide completed Independent Contractor Agreements for each  
12 independent contractor to be used as a loan originator.
- 13 D. Respondent NARES failed to provide an original, signed and sealed bond rider including the  
14 verbiage "a corporation organized under the laws of the state of Nevada."

15 **1.4 Incomplete and Inadequate Response to Department Request Dated October 10, 2003:** On  
16 October 10, 2003, the Department sent a detailed request, via first class mail and telefacsimile, to Respondent  
17 NARES for additional information and documentation in the form of a written response, to be provided in a  
18 single package due to the Department no later than November 10, 2003. Respondent NARES's responses,  
19 received by the Department between November 5, 2003 and December 12, 2003 (after an extension on the  
20 November 10, 2003 deadline was granted), were inadequate or incomplete as follows:

- 21 A. Respondent NARES failed to specify whom among its personnel will be titled loan originators  
22 (originating loans in the State of Washington).
- 23 B. Respondent NARES failed to provide an original, signed and sealed surety bond.

24 **1.5 Incomplete and Inadequate Response to Department Request Dated December 18, 2003:** On  
25 December 18, 2003, the Department sent a detailed request, via first class mail and telefacsimile, to Respondent

1 NARES for additional information and documentation in the form of a written response, to be provided in a  
2 single package due to the Department no later than January 8, 2004. The last paragraph of the Department's  
3 request included "NOTE: NO ADDITIONAL EXTENSIONS TO THIS DEADLINE WILL BE GRANTED."  
4 Respondent NARES's response, received by the Department January 8, 2004 and stating "...enclosed please  
5 find all of the missing items you requested, except the surety instrument that will be arriving soon," was  
6 inadequate or incomplete as follows:

- 7 A. Respondent NARES failed to specify whom among its personnel will be titled loan originators  
8 (originating loans in the State of Washington).
- 9 B. Respondent NARES failed to provide an explanation for the numerous collection accounts  
10 listed on the credit report provided for Andrew Santoli.
- 11 C. Respondent NARES failed to provide evidence of payment for all "unpaid" collection items  
12 listed on the credit report provided for Andrew Santoli.
- 13 D. Respondent NARES failed to provide evidence of payment for all "unpaid" collection items  
14 listed on the credit report provided for Matthew Santoli, identified as Respondent NARES's  
15 proposed Designated Broker subsequent to the time of application.
- 16 E. Respondent NARES failed to provide a credit report, including a check of public records, for  
17 Pamela Ryan, listed as an officer of Respondent NARES in its application.
- 18 F. Respondent NARES failed to provide an original, signed and sealed surety bond.
- 19 G. Respondent NARES failed to provide an original, signed and sealed bond rider extending  
20 coverage to include Independent Contractors.

21 **1.6 Surety Bond:** The Department has requested that Respondent NARES provide an original signed and  
22 sealed surety bond and an original signed and sealed bond rider extending coverage to include Independent  
23 Contractors (see paragraph 1.5 above). To date, Respondents have failed to file these surety instruments with  
24 the Department.

1 **1.7 Credit Rating:** Credit reports provided to the Department for Respondent Andrew Santoli and  
2 proposed Designated Broker Matthew Santoli display numerous unpaid collection accounts. The Department  
3 has requested that Respondent NARES provide an explanation for the numerosity of these accounts and  
4 evidence that each unpaid account has been fully paid (see paragraphs 1.2 and 1.5 above), To date, Respondents  
5 have failed to provide these items to the Department.

## 6 **II. GROUNDS FOR ENTRY OF ORDER**

7 **2.1 Requirement to Provide Information:** Based on the Factual Allegations set forth in Section I above,  
8 Respondent has failed to meet the requirements of RCW 19.146.205(1), RCW 19.146.210(1) and WAC 208-  
9 660-030(1) by failing to provide an application with information in the written form prescribed by the Director.

10 **2.2 Requirement to Provide Surety Bond:** Based on the Factual Allegations set forth in Section I above,  
11 Respondent has failed to meet the requirements of RCW 19.146.205(4) and WAC 208-660-080(1) by failing to  
12 file a surety bond or approved alternative meeting the requirements of the Director.

13 **2.3 Requirement to Demonstrate Financial Responsibility, Character and General Fitness:** Based on  
14 the Factual Allegations set forth in Section I above, Respondent has failed to meet the requirements of RCW  
15 19.146.210(1) and WAC 208-660-160(5) for failing to demonstrate financial responsibility, character, and  
16 general fitness such as to command the confidence of the community and to warrant a belief that the business  
17 will be operated honestly, fairly, and efficiently within the purposes of the Mortgage Broker Practices Act.

18 **2.4 Authority to Deny Application for License:** Pursuant to RCW 19.146.210(2) and WAC 208-660-  
19 160(2) and (5), the Director shall deny a license application if the applicant has failed to provide information  
20 requested by the Department pursuant to the application process, or has failed to file the required surety bond  
21 with the Department, or has failed to demonstrate financial responsibility, character, and general fitness such as  
22 to command the confidence of the community and to warrant a belief that the business will be operated  
23 honestly, fairly, and efficiently within the purposes of the Mortgage Broker Practices Act. Pursuant to WAC  
24 208-660-030(2), the Director may deny an application as incomplete if the applicant fails within ten business  
25 days to meet a second request from the Director for information without good cause.

1 **2.5 Authority to Collect Investigation Fee:** Pursuant to RCW 19.146.210(2), RCW 19.146.228(3), WAC  
2 208-660-060(1) and WAC 208-660-061, upon completion of processing and reviewing an application for a  
3 license, the Department will prepare a billing, regardless of whether a license has been issued, calculated at the  
4 rate of \$37.16 per hour that each staff person devoted to processing and reviewing the application. The  
5 application deposit will be applied against this bill. Any amount left owing to the Department will be billed to  
6 and paid promptly by the applicant.

### 7 **III. NOTICE OF INTENTION TO ENTER ORDER**

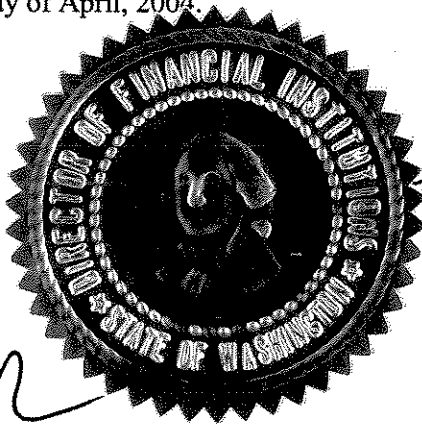
8 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth  
9 in the above Factual Allegations and Grounds for Entry of Order, constitute a basis for the entry of an Order under  
10 RCW 19.146.210, RCW 19.146.220, RCW 19.146.221 and RCW 19.146.223. Therefore, it is the Director's  
intention to ORDER that:

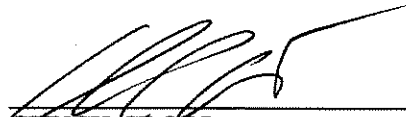
- 11 3.1 Respondent North American Real Estate Services, Inc.'s application for a Mortgage Broker License be  
12 denied; and
- 13 3.2 Respondent North American Real Estate Services, Inc. pay an investigation fee in the amount of  
14 \$966.16, calculated at \$37.16 per hour for the thirty-six (36) staff hours devoted to the investigation,  
15 less the ten (10) staff hours paid out of Respondents' application deposit.
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1 **IV. AUTHORITY AND PROCEDURE**


2 This Statement of Charges and Notice of Intention to Enter an Order to Deny License Application and Collect  
3 Investigation Fee is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW  
4 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The Administrative  
5 Procedure Act). Respondents may make a written request for a hearing as set forth in the NOTICE OF  
6 OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of  
7 Charges and Notice of Intention to Enter an Order to Deny License Application and Collect Investigation Fee.

8 Dated this 20th day of April, 2004.



  
CHUCK CROSS  
Acting Director and Enforcement Chief  
Division of Consumer Services  
Department of Financial Institutions

13 Presented by:

14   
15 Mark T. Olson  
16 Financial Examiner

**RCW 19.146.205 License -- Application -- Exchange of fingerprint data with federal bureau of investigation -- Fee - Bond or alternative.**

(1) Application for a mortgage broker license under this chapter shall be in writing and in the form prescribed by the director. The application shall contain at least the following information:

(a) The name, address, date of birth, and social security number of the applicant, and any other names, dates of birth, or social security numbers previously used by the applicant, unless waived by the director;

(b) If the applicant is a partnership or association, the name, address, date of birth, and social security number of each general partner or principal of the association, and any other names, dates of birth, or social security numbers previously used by the members, unless waived by the director;

(c) If the applicant is a corporation, the name, address, date of birth, and social security number of each officer, director, registered agent, and each principal stockholder, and any other names, dates of birth, or social security numbers previously used by the officers, directors, registered agents, and principal stockholders unless waived by the director;

(d) The street address, county, and municipality where the principal business office is to be located;

(e) The name, address, date of birth, and social security number of the applicant's designated broker, and any other names, dates of birth, or social security numbers previously used by the designated broker and a complete set of the designated broker's fingerprints taken by an authorized law enforcement officer; and

(f) Such other information regarding the applicant's or designated broker's background, financial responsibility, experience, character, and general fitness as the director may require by rule.

...

(4)(a) Each applicant for a mortgage broker's license shall file and maintain a surety bond, in an amount of not greater than sixty thousand dollars nor less than twenty thousand dollars which the director deems adequate to protect the public interest, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety. The bonding requirement as established by the director may take the form of a uniform bond amount for all licensees or the director may establish by rule a schedule establishing a range of bond amounts which shall vary according to the annual average number of loan originators or independent contractors of a licensee. The bond shall run to the state of Washington as obligee, and shall run first to the benefit of the borrower and then to the benefit of the state and any person or persons who suffer loss by reason of the applicant's or its loan originator's violation of any provision of this chapter or rules adopted under this chapter. The bond shall be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all rules adopted under this chapter, and shall reimburse all persons who suffer loss by reason of a violation of this chapter or rules adopted under this chapter. Borrowers shall be given priority over the state and other persons. The state and other third parties shall be allowed to receive distribution pursuant to a valid claim against the remainder of the bond. In the case of claims made by any person or entity who is not a borrower, no final judgment may be entered prior to one hundred eighty days following the date the claim is filed. The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the director of its intent to cancel the bond. The cancellation shall be effective thirty days after the notice is received by the director. Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall be considered one continuous obligation, and the surety upon the bond shall not be liable in an aggregate or cumulative amount exceeding the penal sum set forth on the face of the bond. In no event shall the penal sum, or any portion thereof, at two or more points in time be added together in determining the surety's liability. The bond shall not be liable for any penalties imposed on the licensee, including, but not limited to, any increased damages or attorneys' fees, or both, awarded under RCW 19.86.090. The applicant may obtain the bond directly from the surety or through a group bonding arrangement involving a professional organization comprised of mortgage brokers if the arrangement provides at least as much coverage as is required under this subsection.

...

[2001 c 177 § 4; 1997 c 106 § 9; 1994 c 33 § 8; 1993 c 468 § 6.]



**RCW 19.146.210 License -- Requirements for issuance -- Denial -- Validity -- Surrender -- Interim license -- Rules.**

(1) The director shall issue and deliver a mortgage broker license to an applicant if, after investigation, the director makes the following findings:

(a) The applicant has paid the required license fees;

(b) The applicant has complied with RCW 19.146.205;

(c) Neither the applicant, any of its principals, or the designated broker have had a license issued under this chapter or any similar state statute suspended or revoked within five years of the filing of the present application;

(d) Neither the applicant, any of its principals, or the designated broker have been convicted of a gross misdemeanor involving dishonesty or financial misconduct or a felony within seven years of the filing of the present application;

(e) The designated broker, (i) has at least two years of experience in the residential mortgage loan industry or has completed the educational requirements established by rule of the director and (ii) has passed a written examination whose content shall be established by rule of the director; and

(f) The applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter.

(2) If the director does not find the conditions of subsection (1) of this section have been met, the director shall not issue the license. The director shall notify the applicant of the denial and return to the applicant the bond or approved alternative and any remaining portion of the license fee that exceeds the department's actual cost to investigate the license.

(3) The director shall issue a license under this chapter to any licensee issued a license under chapter 468, Laws of 1993, that has a valid license and is otherwise in compliance with the provisions of this chapter.

(4) A license issued pursuant to this chapter is valid from the date of issuance with no fixed date of expiration.

(5) A licensee may surrender a license by delivering to the director written notice of surrender, but the surrender does not affect the licensee's civil or criminal liability arising from acts or omissions occurring before such surrender.

(6) To prevent undue delay in the issuance of a license and to facilitate the business of a mortgage broker, an interim license with a fixed date of expiration may be issued when the director determines that the mortgage broker has substantially fulfilled the requirements for licensing as defined by rule.

[1997 c 106 § 10; 1994 c 33 § 10; 1993 c 468 § 7.]

**RCW 19.146.220 Director -- Powers and duties -- Violations as separate violations -- Rules.**

(1) The director shall enforce all laws and rules relating to the licensing of mortgage brokers, grant or deny licenses to mortgage brokers, and hold hearings.

(2) The director may impose the following sanctions:

(a) Deny applications for licenses for: (i) Violations of orders, including cease and desist orders issued under this chapter; or (ii) any violation of RCW 19.146.050 or 19.146.0201 (1) through (9);

(b) Suspend or revoke licenses for:

(i) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(ii) Failure to pay a fee required by the director or maintain the required bond;

(iii) Failure to comply with any directive or order of the director; or

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(iv) Any violation of RCW 19.146.050, 19.146.060(3), 19.146.0201 (1) through (9) or (12), 19.146.205(4), or 19.146.265;

(c) Impose fines on the licensee, employee or loan originator of the licensee, or other person subject to this chapter for:

(i) Any violations of RCW 19.146.0201 (1) through (9) or (12), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265; or

(ii) Failure to comply with any directive or order of the director;

(d) Issue orders directing a licensee, its employee or loan originator, or other person subject to this chapter to:

(i) Cease and desist from conducting business in a manner that is injurious to the public or violates any provision of this chapter; or

(ii) Pay restitution to an injured borrower; or

(e) Issue orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under this chapter for:

(i) Any violation of 19.146.0201 (1) through (9) or (12), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265; or

(ii) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(iii) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony after obtaining a license; or

(iv) Failure to comply with any directive or order of the director.

(3) Each day's continuance of a violation or failure to comply with any directive or order of the director is a separate and distinct violation or failure.

(4) The director shall establish by rule standards for licensure of applicants licensed in other jurisdictions.

(5) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a \*residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

[1997 c 106 § 12; 1997 c 58 § 879; 1996 c 103 § 1; 1994 c 33 § 12; 1993 c 468 § 8.]

#### **RCW 19.146.221 Action by director -- Hearing -- Sanction.**

The director may, at his or her discretion and as provided for in \*RCW 19.146.220(2), take any action specified in RCW 19.146.220(1). If the person subject to such action does not appear in person or by counsel at the time and place designated for any administrative hearing that may be held on the action then the person shall be deemed to consent to the action. If the person subject to the action consents, or if after hearing the director finds by a preponderance of the evidence that any grounds for sanctions under this chapter exist, then the director may impose any sanction authorized by this chapter.

[1994 c 33 § 13.]

1 **RCW 19.146.223 Director -- Administration and interpretation.**

2 The director shall have the power and broad administrative discretion to administer and interpret the provisions of this chapter to fulfill the intent of the legislature as expressed in RCW 19.146.005.

3 [1994 c 33 § 2.]

4 **RCW 19.146.228 Fees -- Rules -- Exception.**

5 The director shall establish fees by rule in accordance with RCW 43.24.086 sufficient to cover, but not exceed, the costs of administering this chapter. These fees may include:

- 6 (1) An annual assessment paid by each licensee on or before a date specified by rule;
- 7 (2) An investigation fee to cover the costs of any investigation of the books and records of a licensee or other person subject to this chapter; and
- 8 (3) An application fee to cover the costs of processing applications made to the director under this chapter.

9 Mortgage brokers shall not be charged investigation fees for the processing of complaints when the investigation determines that no violation of this chapter occurred or when the mortgage broker provides a remedy satisfactory to the complainant and the director and no order of the director is issued. All moneys, fees, and penalties collected under the authority of this chapter shall be deposited into the financial services regulation fund, unless the consumer services account is created as a dedicated, nonappropriated account, in which case all moneys, fees, and penalties collected under this chapter shall be deposited in the consumer services account.

10 [2001 c 177 § 5; 1997 c 106 § 13; 1994 c 33 § 9.]

11 **RCW 19.146.230 Administrative procedure act application.**

12 The proceedings for denying license applications, issuing cease and desist orders, suspending or revoking licenses, and imposing civil penalties or other remedies issued pursuant to this chapter and any appeal therefrom or review thereof shall be governed by the provisions of the administrative procedure act, chapter 34.05 RCW.

13 [1994 c 33 § 16; 1993 c 468 § 10.]

14 **WAC 208-660-030 Application procedure for mortgage broker license.**

- 15 (1) Each person required to have a license must apply to the director by filing the following:
- 16 (a) An application in the form prescribed by the director, including without limit the information required by RCW 19.146.205 (1)(a) through (d).
- 17 (b) A surety bond and related power of attorney, or approved alternative to the bond, in accordance with RCW 19.146.205(3) and WAC 208-660-080 and 208-660-08010.
- 18 (c) The application deposit.
- 19 (d) In regard to each principal and designated broker of the applicant:
- 20 (i) Biographical information including complete and accurate employment history and a description of any material litigation involving the person;
- 21 (ii) An independent credit report obtained from a recognized credit reporting agency;
- 22 (iii) A signed authorization for a background investigation on a form provided by the department;
- 23 (iv) Completed fingerprint cards accepted by the Washington state patrol;
- 24 (v) A signed authorization for verification of the existence of a trust account on a form provided by the department;
- 25 (vi) A certificate of passing an approved examination (this requirement does not apply to principals); and
- (vii) A certificate of satisfactory completion of an approved licensing course, or satisfactory proof of at least two years of experience in accordance with WAC 208-660-040 (this requirement does not apply to principals).
- (e) A signed certificate of compliance and authorization to examine trust accounts on a form provided by the department;
- (f) Information to support any required branch office certificate, as required by WAC 208-660-070.
- (g) Information in regard to each independent contractor retained by the applicant, in accordance with RCW 19.146.200(1).
- (h) A copy of any written agreement with a lender or licensee, in accordance with RCW 19.146.040(2).
- (i) A copy of any form to be approved by the director in accordance with WAC 208-660-130(2).

(j) If the applicant's principal office is located out-of-state, information in regard to the applicant's registered agent, in accordance with RCW 19.146.220(3).

(2) Notwithstanding any other provision of these rules, the director may deny an application as incomplete if the applicant fails within ten business days to meet a second request from the director for information, except that the director may grant an extension to the applicant when good cause is shown. An example of good cause may include, but is not limited to, death or incapacitating illness of the preparer, or other catastrophic occurrence. Failure to file requested information under such circumstances will not affect new applications filed after the denial. An applicant may reapply upon submission of a new application and an additional application deposit.

[Statutory Authority: RCW 43.320.010, 19.146.223, 01-01-044, § 208-660-030, filed 12/8/00, effective 1/8/01; 96-04-028, recodified as § 208-660-030, filed 2/1/96, effective 4/1/96. Statutory Authority: RCW 19.146.225, 95-13-091, § 50-60-030, filed 6/21/95, effective 7/22/95. Statutory Authority: 1993 c 468 § 9, 94-03-009, § 50-60-030, filed 1/7/94, effective 2/7/94.]

**WAC 208-660-060 Department's fees and assessments.**

(1) Upon completion of processing and reviewing an application for a license or branch office certificate, the department will prepare a billing, regardless of whether a license or certificate has been issued, calculated at the rate of \$35.98 per hour that each staff person devoted to processing and reviewing the application. The application deposit will be applied against this bill. Any amount left owing to the department will be billed to and paid promptly by the applicant, while any balance remaining from the deposit will be refunded promptly to the applicant.

(2) Upon completion of any examination of the books and records of a licensee, the department will furnish to the licensee a billing to cover the cost of the examination. The examination charge will be calculated at the rate of \$46.26 per hour that each staff person devoted to the examination. The examination billing will be paid by the licensee promptly upon receipt. Licensees that were issued licenses prior to March 21, 1994, have prepaid in their initial license fee the cost of the first compliance examination of the licensee conducted by the department during the first two years after the date of issuance of the license.

(3) Each licensee shall pay to the director an annual assessment of \$513.95 for each license, and \$513.95 for each branch office certificate. The annual assessment(s) will be due no later than the last business day of the month in which the anniversary date of the issuance of the broker's license occurs.

(4) Upon completion of any investigation of the books and records of a mortgage broker other than a licensee, the department will furnish to the broker a billing to cover the cost of the investigation. The investigation charge will be calculated at the rate of \$46.26 per hour that each staff person devoted to the investigation. The investigation billing will be paid by the mortgage broker promptly upon receipt.

[Statutory Authority: RCW 18.44.410, 19.146.223, 19.146.225, 19.146.265, 31.04.165, 31.45.200, 01-12-029, § 208-660-060, filed 5/29/01, effective 7/1/01; 96-04-028, recodified as § 208-660-060, filed 2/1/96, effective 4/1/96. Statutory Authority: RCW 19.146.225, 95-13-091, § 50-60-060, filed 6/21/95, effective 7/22/95; 94-23-033, § 50-60-060, filed 11/8/94, effective 12/9/94. Statutory Authority: 1993 c 468 § 9, 94-03-009, § 50-60-060, filed 1/7/94, effective 2/7/94.]

**WAC 208-660-061 Fee increase.**

The division intends to increase its fee and assessment rates each year for several bienniums. The division intends to initiate a rule making for this purpose each biennium. This rule provides for an automatic annual increase in the rate of fees and assessments each fiscal year during the 2001-03 biennium.

(1) On July 1, 2002, the fee and assessment rates under WAC 208-660-060, as increased in the prior fiscal year, will increase by a percentage rate equal to the fiscal growth factor for the then current fiscal year. As used in this section, "fiscal growth factor" has the same meaning as the term is defined in RCW 43.135.025.

(2) The director may round off a rate increase under subsection (1) of this section. However, no rate increase may exceed the applicable fiscal growth factor.

(3) By June 1 of each year, the director will make available a chart of the new rates that will take effect on the immediately following July 1.

[Statutory Authority: RCW 18.44.410, 19.146.223, 19.146.225, 19.146.265, 31.04.165, 31.45.200. 01-12-029, § 208-660-061, filed 5/29/01, effective 7/1/01.]

**WAC 208-660-080 Surety bond and approved alternatives -- General requirements.**

(1) Each applicant for a license and licensee must file and maintain on file with the director:

(a) A surety bond in the required amount and related power of attorney issued by a bonding company or insurance company authorized to do business in this state; or

(b) An approved alternative to a surety bond in the required amount in accordance with WAC 208-660-08010.

The required amount of the surety bond or approved alternative ranges from twenty thousand dollars to sixty thousand dollars and is based on the applicant's or licensee's monthly average number of loan originators calculated in accordance with subsection (2) of this section. The surety bond or approved alternative is subject to claims in accordance with RCW 19.146.205 and 19.146.240. Borrowers shall be given priority over the state and other persons who file claims against the bond or approved alternative. The state and other persons shall not receive distributions from the remainder of the bond or approved alternative pursuant to valid claims prior to one hundred eighty days following the date a claim is made against the bond.

[Statutory Authority: RCW 43.320.010, 19.146.223. 01-01-044, § 208-660-080, filed 12/8/00, effective 1/8/01; 96-04-028, recodified as § 208-660-080, filed 2/1/96, effective 4/1/96. Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-080, filed 6/21/95, effective 7/22/95; 94-23-033, § 50-60-080, filed 11/8/94, effective 12/9/94. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-080, filed 1/7/94, effective 2/7/94.]

**WAC 208-660-160 License application denial or condition; license suspension or revocation.**

The director may deny or condition approval of a license application, or suspend or revoke a license if the applicant or licensee, or any principal or designated broker of the applicant or licensee:

(2) Has not filed the required surety bond or approved alternative or otherwise complied with RCW 19.146.205;

(5) Has failed to demonstrate financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a belief that the business will be operated honestly, fairly, and efficiently within the purposes of the Mortgage Broker Practices Act. The director may find that the person has failed to make the demonstration if, among other things:

(a) The person is or has been subject to an injunction issued pursuant to the Mortgage Broker Practices Act or the Consumer Protection Act; or

(b) An independent credit report issued by a recognized credit reporting agency indicates that the person has a substantial history of unpaid debts;

[Statutory Authority: RCW 43.320.010, 19.146.223. 01-01-044, § 208-660-160, filed 12/8/00, effective 1/8/01; 96-04-028, recodified as § 208-660-160, filed 2/1/96, effective 4/1/96. Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-160, filed 6/21/95, effective 7/22/95. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-160, filed 1/7/94, effective 2/7/94.]